IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Civil Application No. 4489 of 2005
in
FA. St. No. 36310 of 2002
with
Civil Application No. 3056 of 2005
in
FA. St. No. 36310 of 2002

ARUDYOG ENGINEERS PVT.LTD.
through Vasant Rayappa Chavan, Managing
Director, .. Applicants.

V/S

M/s. VANAZ ENGINEERS LTD. , ... Respondents

V. R. Chavan in person.
S.R. Page for respondents.

CORAM: R.M.S. KHANDEPARKAR
&
MRS. ROSHAN DALVI JJ.
DATE:27/03/2006

P.C.:

Heard the applicant in person and the learned advocate for the respondent. These are the applications for condonation of delay and for setting aside the order dated 24th February 2003 passed by the learned Registrar, respectively.

On account of the failure on the part of the applicant to pay the court fee in First Appeal St., No. 36310 of 2002 within the time granted the learned Registrar refused registration of the appeal and thereby the appeal stood rejected consequent to the order dated 24.2.2003. The applicant preferred Civil Revision application

no. 3055 of 2005 for setting aside of the said order and for restoration of the appeal. The same was filed on 6th June 2005. However, there was no application for condonation of delay in filing the said Revision application. It was only on 4th October 2005 that the applicant filed application no. 4489 of 2005 for condonation of delay of 1005 days in filing the said Revision application for setting aside of the order of the learned Registrar.

The application for condonation of delay nowhere discloses facts which resulted in delay of 1005 days in filing the said application, apart from mentioning that on account of ill health and financial difficulties and lack of knowledge about the procedure that the applicant could not file the application within time. It is to be noted that when the applicant filed the appeal he was duly represented by an advocate. Even the Revision application for setting aside the order of the learned Registrar nowhere discloses that the applicant was suffering from any illness for a period of 3 years from the date of the order, by the Registrar till the filing of the said application. Similarly, financial constraint is not disclosed in the application filed for setting aside the said order. Undoubtedly there was reference to the financial crisis at the time of the filing of the application but it does not disclose similar situation was faced by the applicant at the time when the appeal was filed. Therefore the ground of financial crisis and ill-health disclosed in the application for condonation of delay is merely an after thought.

In the absence of any sufficient cause being shown for delay of more than 1000 days in filing the application for setting aside the order of the Registrar, and there is no any justifiable

reason for non-payment of the court fees at the time of filing of the appeal within the period it was allowed to be paid, there is absolutely no case made out for condonation of delay of such a long period. Hence the application for condonation of delay along with the application for setting aside the order of the Registrar is liable to be dismissed and is accordingly dismissed.

In view of the dismissal of F.A.St. No. 36310 of 2002 Civil Revision application no. 3055 of 2005 does not survive and hence the same is also dismissed.

(MRS. ROSHAN DALVI J.) (R.M.S.KHANDEPARKAR J)